

1  
2  
3  
4  
5  
6  
7  
8                   UNITED STATES DISTRICT COURT  
9                   WESTERN DISTRICT OF WASHINGTON  
10                  AT TACOMA

11                  MICHAEL ALBERT WHITE,

12                  Plaintiff,

13                  v.

14                  STATE OF WASHINGTON, *et al.*,

15                  Defendants.

16                  CASE NO. 3:21-cv-05095-BJR-JRC

17                  ORDER DENYING  
18                  APPOINTMENT OF COUNSEL

19                  Before this Court is plaintiff's motion for appointment of counsel. Dkt. 11; *see also* Dkts.  
20 16–17. After reviewing the relevant record before this Court, the Court finds that the interests of  
21 justice do not require the appointment of counsel at this time. Therefore, the motion is denied.

22                  Although indigent defendants in criminal cases are entitled to appointed counsel, there is  
23 no constitutional right to appointed counsel in a § 1983 civil action. *Storseth v. Spellman*, 654  
24 F.2d 1349, 1353 (9th Cir. 1981); *see United States v. \$292,888.04 in U.S. Currency*, 54 F.3d 564,  
569 (9th Cir. 1995) (“[a]ppointment of counsel under this section is discretionary, not  
mandatory”). However, in “exceptional circumstances,” a district court may appoint counsel for

1 indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1) (formerly 28 U.S.C. § 1915(d)). *Rand*  
2 *v. Roland*, 113 F.3d 1520, 1525 (9th Cir. 1997), *overruled on other grounds*, 154 F.3d 952 (9th  
3 Cir. 1998). To decide whether exceptional circumstances exist, the Court must evaluate both “the  
4 likelihood of success on the merits [and] the ability of the [plaintiff] to articulate his claims *pro  
5 se* in light of the complexity of the legal issues involved.” *Wilborn v. Escalderon*, 789 F.2d 1328,  
6 1331 (9th Cir. 1986) (quoting *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). A plaintiff  
7 must plead facts showing he has an insufficient grasp of his case or the legal issues involved and  
8 an inadequate ability to articulate the factual basis of his claims. *Agyeman v. Corrections Corp.  
9 of America*, 390 F.3d 1101, 1103 (9th Cir. 2004).

10 Here, in support of his motion, plaintiff states that he is incarcerated and is not privy to a  
11 list of attorneys who may be interested in his case. *See* Dkt. 17, at 3. However, that is not an  
12 exceptional circumstance compelling the Court to appoint counsel at this early stage. There is no  
13 dispositive motion pending and the discovery deadline is not until November 12, 2021. *See* Dkt.  
14 20. Also, plaintiff has not established a likelihood of success on the merits, at this point.

15 Furthermore, the facts and legal issues do not appear to be unusually complex such that  
16 plaintiff could not articulate his claims *pro se*. Without the assistance of an attorney, plaintiff has  
17 managed to file a complaint alleging that he has been denied medical treatment, has moved the  
18 court to serve defendants, and has filed this motion. *See* Dkts. 4–5, 11.

19 Therefore, plaintiff’s request for the appointment of counsel at this early stage is denied  
20 without prejudice, meaning that plaintiff may renew the motion at a later date upon a showing of  
21 exceptional circumstances. The Court also observes that plaintiff appears to have mistakenly  
22 believed that he was represented by an attorney for the defendants. *See* Dkt. 17. The Court has  
23  
24

1 not appointed an attorney to represent plaintiff, so plaintiff must proceed in *pro se* at this time,  
2 unless he obtains his own counsel.

3 Therefore, it is ORDERED:

- 4 (1) Plaintiff's motion for appointment of counsel (Dkt. 11) is denied.  
5 (2) The Clerk shall send a copy of this Order to plaintiff.

6 Dated this 6th day of July, 2021.



7  
8 J. Richard Creatura  
9 Chief United States Magistrate Judge  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24